IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

Civil Action NO. 5: 11-CV-470-F

AMERICAN CIVIL LIBERTIES UNION OF NORTH CAROLINA, DEAN DEBNAM, CHRISTOPHER HEANEY, SUSAN HOLLIDAY, CNM, MSN, and MARIA MAGHER, Plaintiffs, v. EUGENE A. CONTI, JR., in his official Capacity as Secretary of the North Carolina Department of Transportation, MICHAEL ROBERTSON, in his official capacity as Commissioner of the North Carolina Division of Motor Vehicles, and MICHAEL GILCHRIST, in his official capacity as Colonel of the North Carolina State Highway Patrol, Defendants.	)	**ANSWER of Defendants Conti and Robertson**

NOW COME Defendants Eugene A. Conti, Jr. and Michael Robertson[1], by and through their counsel, Roy Cooper, Attorney General, and Neil Dalton, Special Deputy Attorney General, and provide answers to the averments of fact contained in the complaint filed herein as follows:

Introduction

1. Paragraph 1 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.

[1] Defendant Michael Gilchrist is represented by other counsel in this matter.

2. It is admitted that a North Carolina state law, effective June 30, 2011, would, if ever implemented, make available a specialty license plate with the words "Choose Life" to vehicle owners. Paragraph 2 of the complaint is otherwise denied.
3. It is admitted that vehicle owners in North Carolina may not obtain from the North Carolina Division of Motor Vehicles a specialty plate expressing support for "a woman's right to reproductive freedom." Paragraph 3 of the complaint is otherwise denied.
4. Paragraph 4 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.

Jurisdiction and Venue

5. Paragraph 5 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
6. Paragraph 6 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
7. Paragraph 7 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.

Parties

8. Paragraph 8 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
9. Paragraph 9 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
10. Paragraph 10 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.

11. Paragraph 11 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
12. Paragraph 12 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.
13. Paragraph 13 of the complaint is denied.
14. Paragraph 14 of the complaint is denied.
15. It is admitted that "striking down the Act," would not grant Plaintiffs access to the license plate forum without further legislation. Paragraph 15 of this complaint is otherwise denied.
16. The factual averments of paragraph 16 of the complaint are admitted.
17. The factual averments of paragraph 17 of the complaint are admitted.
18. Defendant Gilchrist is represented by other counsel in this matter. The factual averments in paragraph 18 of this complaint are therefore neither admitted nor denied by Defendants Robertson and Conti.
19. The factual averments of paragraph 19 of the complaint are admitted.
20. The factual averments of paragraph 20 of the complaint are admitted.
21. Paragraph 21 of the complaint is denied to the extent that a Civic Club, according to N.C. Gen. Stat. § 20-79.4(b27), can apply for a specialty plate and will be approved if it meets the statutory requirements. Paragraph 21 of the complaint is otherwise admitted.
22. Paragraph 22 of the complaint is admitted except for the characterization of the variety of these plates as "astonishing,' which is denied.
23. Paragraph 23 of the complaint is admitted.
24. Paragraph 24 of the complaint is admitted.

25. Paragraph 25 of the complaint is admitted.

26. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 26.

27. Paragraph 27 of the complaint is admitted.

Legislative History

28. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 28.

29. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 29.

30. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 30.

31. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 31.

32. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 32.

33. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 33.

34. Defendants Conti and Robertson lack information to admit or deny the factual averments of Paragraph 34.

Cause of Action

35. Paragraph 35 of the complaint does not contain averments of fact of which the defendants have knowledge and therefore it is neither admitted nor denied.

36. The factual averments of Paragraph 36 of the complaint are denied.

37. The factual averments of Paragraph 37 of the complaint are denied.

38. The factual averments of Paragraph 38 of the complaint are denied.

39. The factual averments of Paragraph 39 of the complaint are denied.

FIRST DEFENSE

The defendants are not liable for monetary damages in this action.

SECOND DEFENSE

The plaintiff is not entitled to attorneys fees against these defendants in this action.

THIRD DEFENSE

There are reasonable alternatives the plaintiff could take to ensure free speech.

FOURTH DEFENSE

The defendants have not infringed upon on the plaintiff's First Amendment Rights.

FIFTH DEFENSE

The statute in question has not infringed upon the plaintiff's First Amendment Rights.

SIXTH DEFENSE

The defendants have at all times acted lawfully and in good faith.

WHEREFORE, defendants pray this Court:

1. That the plaintiffs have and recover nothing.
2. That this case be dismissed in its entirety.

Respectfully submitted, this the __25th__ day of October, 2011.

ROY COOPER
ATTORNEY GENERAL
Electronically submitted
s/Neil Dalton
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this day a copy of Defendants Robertson and Conti's Answer was electronically filed utilizing ECF/CM System which will send notification of such filing to all parties of record.

Katherine Lewis Parker, Legal Director
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This the 25th day of October, 2011.

Electronically submitted
s/Neil Dalton
Special Deputy Attorney General
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